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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/724,413 | 12/01/2003 | Rodney Anthony Farmer | | 1063 |

7590 09/30/2004

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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,413

Applicant(s)

FARMER, RODNEY ANTHONY

Examiner

Josiah Cocks

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/1/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings filed on 12/1/2003 are accepted by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,325,994 to Mizialko et al. ("Mizialko") in view of U.S. Patent No. 1,543,086 to Baehr ("Baehr") and U.S. Patent No. 6,439,806 to Dillingham ("Dillingham").

Mizialko discloses in Figures 1-7 a portable heating and melting apparatus that is similar to that described in applicant's claims 1-10. In particular, Mizialko discloses a containment body (12) a plurality of vent apertures (18), a handle (90) mounted to the containment body, a gas burner (24) located within a cavity of the containment body, a flowable material/tar cooking vessel (see vessel formed by inner walls 14), a lid (42), a temperature gauge (30), and a pair of wheels (48). Mizialko also discloses a front wheel (52) that serves as front support contacting the ground. The examiner regards this wheel as the foot claimed by applicant in claims 4 and 6. Mizialko further discloses a flexible hose connected the gas burner and a fuel tank (see Figs. 1 and 2). The bottom wall of the interior receptacle is shown spaced from the outer wall and is

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located above the burner, this structure is considered the equivalent of the platform recited by applicant.

Mizialko does not disclose that the temperature gauge is mounted on the lid. However, Dillingham is cited to show a tar heating apparatus that is analogous to that of Mizialko. In Dillingham, a temperature gauge (55) is shown mounted in the lid of an interior container (see Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of Mizialko to incorporate the temperature gauge location of Dillingham as this location is understood in the art to desirably allow for extending of a temperature probe attached to the gauge into the container for measuring the temperature of the contents of the container and provides for viewing of the temperature display (see Mizialko, col. 6, lines 4-10).

Mizialko also does not disclose that the tar cooking vessel is capable of removable insertion, and a pivotal handle.

Baehr discloses a material heating apparatus that includes a lower base (8) housing the heating elements and a cooking vessel (1). The cooking vessel may be separated from the base and includes a pivotal handle (24) for carrying the vessel (see page 2, lines 75-86). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the interior cooking vessel portion of Mizialko to incorporate the removable cooking vessel structure of Baehr as this feature desirable allows for a user to gain access to the heating elements for inspection or repair (see Baehr, page 1, lines 55-65).

Conclusion

4. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Gailor, Cretors, Bold, Glade, Fitzpatrick, Byrne, and British Patent No. 2 094 468 are cited to further show the state of the art concerning heating and melting apparatus.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is

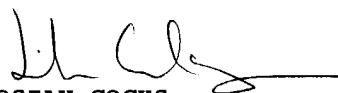
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(703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
September 29, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749